

REMARKS/ARGUMENTS

The Office Action mailed February 16, 2005 has been received and its content carefully considered. Reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the foregoing amendments and the following remarks.

Initially, the Examiner is kindly thanked for her exemplary assistance on May 5, 2005 during an interview at the USPTO in which the § 112 first paragraph issue was resolved. Also discussed were the rejections under § 102(b) and § 103(a). Without conceding the propriety of the rejections under § 102(b) and § 103(a), each of the independent claims 1, 7, 13 and 20 have been amended. Specific support for these amendments is to be found, at least, in Figure 1 and paragraph 25 of the Specification.

REJECTION UNDER 35 U.S.C. §102 (U.S. Patent No. 6,212,924 to Claudio Meisser)

Claims 1, 2, 4-7, 10-18, 20-23, 25 and 26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,212,924 to Claudio Meisser (Hereinafter referred to as, “the Meisser document”). The Applicants respectfully submit that the amendments made to claims 1, 7, 13 and 20 obviate this rejection and thus, respectfully request reconsideration and withdrawal of the rejection to claims 1, 7, 13 and 20 and the claims that depend therefrom.

The Meisser document is directed to a device that evaluates and calibrates a mechanical crimping press. During use, the Meisser device is disposed within the crimping press. *See FIGS. 6-8 and Column 4 lines 39-41.* The crimping press does not include a handle or any other structure that is hand-operable but instead, utilizes a motor to perform crimping operations. *See FIG. 6 and Column 4 lines 30-57.* That is, the Meisser document discloses a crimping press that makes no accommodation for hand use. Similarly, the Meisser evaluation and calibration device

makes no accommodation to function with a hand tool evaluation device. Accordingly, structures to interact with hand tools are absent from the Meisser document. In contrast, claims 1 and 7 recite, *inter alia*, a rest attached to the actuator, the rest providing a surface to bear against the second sensor and the rest providing a surface to bear against the hand-operable tool. Also in contrast to the Meisser document, claim 13 recites, *inter alia*, means for providing a surface to bear against the second sensor and providing a bearing surface for a handle member of the hand-operable tool. Further in contrast to the Meisser document, claim 20 recites, *inter alia*, disposing a second sensor between a pair of rests of the hand-operable tool evaluator, the pair of rests each providing a surface to bear against the second sensor and the pair of rests each providing a surface to bear against the hand-operable tool. The Meisser document fails to disclose, at least, any structure to provide a bearing surface for a handle member of a hand-operable tool. As such, the calibration device of the present invention is patentably distinct from the calibration device of the Meisser document.

In view of the foregoing, withdrawal of the 35 U.S.C. § 102(b) rejection to claims 1, 7, 13 and 20 and the claims that depend therefrom as being anticipated by the Meisser document is respectfully requested at least because the Meisser document fails to disclose any structure to provide a surface to bear against a hand-operable tool. Claims 2 and 4-6 depend from independent claim 1. Claims 10-12 depend from independent claim 7. Claims 14-18 depend from independent claim 13. Claims 21-23, 25 and 26 depend from independent claim 20. In light of the foregoing, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1, 2, 4-7, 10-18, 20-23, 25 and 26 as being anticipated by the Meisser document is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 103(a) (the Meisser document)

Claims 8, 19, 24 and 27 stand rejected under 35 U.S.C. § 103(a) as being anticipated by the Meisser document. Initially, the Applicants note that claim 8 depends from independent claim 7, claim 19 depends from independent claim 13, and claims 24 and 27 depend from independent claim 20 and that claims 7, 13 and 20 are believed to be patentable for at least the reasons stated hereinabove. Applicants further note that any claim that depends from an allowable claim is also allowable. Therefore, Applicants respectfully request that the rejection to claims 8, 19, 24 and 27 be removed.

REJECTIONS UNDER 35 U.S.C. § 103(a) (the Meisser document in view of U.S. Patent No. 4,838,085 to Roy F. Pellerin et al.)

Claims 3 and 9 stand rejected under 35 U.S.C. § 103(a) as being anticipated by the Meisser document in view of U.S. Patent No. 4,838,085 to Roy F. Pellerin et al. Initially, the Applicants note that claim 3 depends from independent claim 1 and claim 9 depends from independent claim 7 and that claims 1 and 7 are believed to be patentable for at least the reasons stated hereinabove. Applicants further note that any claim that depends from an allowable claim is also allowable. Therefore, Applicants respectfully request that the rejection to claims 3 and 9 be removed.

In view of the foregoing, reconsideration and allowance of this application is believed in order and such action is earnestly solicited. Should the Examiner believe that a telephone conference would facilitate examination of the application, the Examiner is respectfully invited to telephone the undersigned at (202) 861-1629.

In the event this paper is not timely filed, the Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036.

Respectfully submitted,

Baker & Hostetler LLP

By: 
Michael D. Graham
Reg. No. 51,750

Date: May 31, 2005
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304
Telephone: 202-861-1500
Facsimile: 202-861-1783